

EVIDENCE-FREE POLICY MAKING? THE CASE OF INCOME MANAGEMENT

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Introduction

This issue of the *Journal of Indigenous Policy* covers one specific topic: how the Federal Government brought in policies, initially race-based, to manage the incomes of people receiving government payments. The various political processes since June 2007 show how two separate governing parties find common ground on these changes, despite the dearth of evidence that income management would or does bring benefits to the communities and individuals affected.

This case study shows how racially prejudiced changes can be used to disguise a major policy shift, raising questions about the inherent assumptions made by government ministers and bureaucrats. How did they manage to avoid any serious public debate on the fairness of shifting away from entitlement to welfare payments towards spending being controlled by the State? The post-war welfare system assumed that those who met criteria for payments had the same rights to spend their money as others had, so controlling expenditure is a big change.

By initially targeting the inhabitants of a limited number of Northern Territory communities, presumed to require emergency ‘assistance’, both Governments misled the public, using the Northern Territory Emergency Response (NTER) as a pilot for wider, ostensibly non-racially based changes. The not unreasonable assumption made by many of those affected and other advocates is that Indigenous people will continue to be targeted, even without *Racial Discrimination Act (RDA)* permission, but they will be joined by others who fail the Gillard good worker tests.

This policy process is quite different from the acceptable norm in policy making. In addition to an unusual lack of prior serious discussion and consultation on the merits and risks of such changes, there is a dearth of evidence that the process has net benefits to justify the financial and social costs.

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By examining both the Intervention and post-Intervention policy processes, this issue of the Journal raises serious questions about what is defined as ‘evidence’ and by whom. It also explores how various consultative processes, formal reports, submissions and statistics have been used and not used, both in the introduction of compulsory income management and in its more recent review and wider extensions.

The focus on income management is still very relevant as various forms of the program are being extended to many people outside the Northern Territory (NT). Five new areas in other states were named to host such a program in July 2012, of which none are particularly Indigenous but all have high proportions of working-age welfare recipients.

This case study of how Indigenous policy was used as a stalking horse in policy change illustrates with unusual clarity how little attention governments pay to evidence when they are driven by prior prejudices and beliefs. There is no doubt that the basis for quarantining 50 per cent of welfare income was a widespread assumption about Indigenous incompetence as parents, money managers and job seekers. It is hard to find other explanations for the failure, presumably by public servants, politicians and even Cabinet members, to accept counter arguments and evidence.

Defining what constitutes good government policy-making is particularly pertinent for Aboriginal and Torres Strait Islander populations, as their recent share of the history of Australia has been marked by many examples of poor government policies. Without canvassing coloniser sins of commission and omission, there are many recent and current examples that have not worked despite their sometimes stated good intentions.

This issue of the Journal draws on the documents used by Government in making and arguing about income management policy. It explores how this policy was developed as part of the NTER, its subsequent review and further extension. The various policy and review processes, spanning from mid 2007 to mid 2011, raise many questions about good and bad policy-making. In particular, the documented history raises questions about the Commonwealth Government’s and the Minister for Indigenous Affairs’ claims to practice ‘evidence-based’ policy making, when they seem to have ignored many findings that did not fit with their previously stated intentions.

There are always limits to the role of ‘evidence’ in policy making: research findings can be questioned or disputed and the *real politik* of government processes are likely to affect decision-making. However, our analysis suggests that more than the usual political pressures and compromises were operating in this case. Decisions appear to have been based on discriminatory beliefs about particular populations and human functioning; and these are now being applied to wider populations as the income management program is extended.

Apparent racial biases affected the initial decisions, but the recent retention and extension of income management also arise from perceived failures of non-Indigenous individuals and families to integrate into a particular model of good worker citizens. So the failure to hold paid jobs is officially their own fault. The policy makers have failed to recognise that disadvantage results from a mix of structural factors, including forms of discrimination. Income management is based on assumptions that the disorders of individuals make them unable to comply with necessary workplace and education efforts. Thus, imposing control over spending and other functions in Indigenous and other communities and individuals will improve their social and economic functioning.

This approach fails to note the increasing evidence of what does work in such communities – the consensus is that it is local control and involvement. Gary Banks, Chair of the Productivity Commission, is a major economic adviser to the current government on its policy options. He is a realist in his expectations of efficacy, as was evident in a recent lecture:

In an address to senior public servants in April last year, the Prime Minister observed that, ‘evidence-based policy making is at the heart of being a reformist government’. Tonight I want to explore why that is profoundly true; what it means in practice, and some implications for those of us in public administration...

The term ‘evidence-based policy making’ has been most recently popularised by the Blair Government, which was elected on a platform of ‘what matters is what works’. Blair spoke of ending ideologically-based decision making and ‘questioning’ inherited ways of doing things’.

It will be clear to all at this gathering in Canberra that policy decisions will typically be influenced by much more than objective evidence, or rational analysis. Values, interests, personalities, timing, circumstance and happenstance — in short, democracy — determine what actually happens.

But evidence and analysis can nevertheless play a **useful, even decisive, role in informing policy-makers’ judgements. Importantly, they can also condition the political environment in which those judgements need to be made.**¹ (Our bold)

The above quotes offer the basis for assessing the current government’s use of available data, submissions, evidence, consultations and other forms of lobbying on this issue. In this article we assess the income management policy processes and compare them with more mainstream examples of effective use of the available data sources and expertise. However, another factor should have received greater consideration, namely the official assumptions

¹ Banks, G, ‘Evidence-based policy making: What is it? How do we get it?’ Paper presented at the ANU Public Lecture Series, presented by ANZSOG, Canberra 4 February 2009. http://www.pc.gov.au/data/assets/pdf_file/0003/85836/20090204-evidence-based-policy.pdf at 29 August 2011.

underpinning policy-making for Indigenous people which too often undervalue cultural and social differences. Steve Larkin, then Principal of the Australian Institute of Aboriginal and Torres Strait Islander Studies, noted in an abstract for a 2006 paper on evidence-based health policy:

White middle-class persons and politically marginalised Aboriginal and Torres Strait Islander peoples do not think and interpret realities in the same way because of divergent structural positions, histories and cultures. Cultural rationality informs and shapes social, political and technical rationalities because the latter are grounded in and developed by the former.²

There is limited acknowledgment among commentators, whether for or against income management, of the importance of recognising the cultural limits of the data that were collected. In particular, the Government documents generally fail to address the cultural problems of interpreting local feedback and responses. The relatively few research-based submissions from Indigenous researchers and organisations were not taken seriously if they failed to agree with government policy raising the wider need to develop a sufficiently legitimate body of Indigenous-led research so that it would be hard to ignore. This extended body of work could also bridge the cultural divides and extend the meaning and interpretation of evidence. We note that some Aboriginal groups supported income management, but we question the official weight given to this viewpoint while many more groups and a wide range of other Indigenous research-based evidence were ignored.

Steve Larkin completed his article by saying:

I have emphasised the requirement that Aboriginal and Torres Strait Islanders' cultural and social rationalities define the policy-relevant research necessary to improve their health. I have examined the pathways by which dominant cultures subordinate others and stressed the importance of decolonisation of research and evidence-building. This new research is necessary to ensure that the evidence that guides policy making to improve Aboriginal and Torres Strait Islander health addresses the issues of racial economic exploitation, racial political oppression and racist ideology.³

There are always caveats about the interaction between politics, policies and what is seen as the limitations of data as 'proof'. However, in this case there is so little hard evidence that income management provides benefits to individuals or communities, or indeed achieves any of the government's ill-defined objectives. Four years of consistent non-admission of this dearth of evidence amounts to a serious failure of responsible policy-making by Federal Minister Jenny Macklin and her Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

² Larkin S, 'Evidence-based policy making in Aboriginal and Torres Strait Islander health', (2006) *Australian Aboriginal Studies* 2006/2, 17-26.

http://www.a.iatsis.gov.au/asj/docs/Larkin_AAS0206.pdf at 29 August 2011.

³ Ibid 24.

It is interesting to note that this current policy failure happened concurrently and soon after the Federal Government's Apology for the many prior examples of appallingly bad policy directed at Indigenous Australians. The current example suggests the Government has not learned from previous failures, and raises questions about the Government's capacity to fulfil its commitments to 'closing the gap' on Indigenous disadvantage.

What works

This issue of the Journal has compiled documents which offer a critique of the Rudd/Gillard Labor government's failure to use evidence in this area of policy-making. We examine some of the ample evidence of what works and what does not work in terms this government can understand, before looking in detail at the processes and decisions that fail the criteria for success.

Effective ways of making policies for Indigenous people were identified by the Productivity Commission in its report on *Overcoming Indigenous Disadvantage (OID)*. Gary Banks enumerated some of these criteria in another speech in 2009:

In a small way, the OID Report has sought to redress this, by including mini case studies of 'things that work' (or appear to be working) in areas targeted by the framework, often at the level of particular communities or regions. The report identifies four factors that are common to many of the 'things that work'.

Such as:

9.1 Cooperative approaches between Indigenous people and government, often involving non-profit and private sectors as well. (The Cape York Welfare Trial is illustrative of the power of this.)

9.2 Community involvement in program design and decision-making — a 'bottom-up' contribution, rather than just relying on 'top-down' direction. (There are many instances of governments designing programs that have resulted in unintended perverse consequences through lack of community input.)

9.3 Ongoing government support — human, financial and physical. We have often seen, even between editions of the OID Report, promising programs that have initially been very successful lose momentum for want of sustained government support.

9.4 Good governance — as noted earlier this cannot be taken for granted, but must be nurtured and supported. It is needed in both Indigenous communities and organisations, and within government itself.⁴

In his earlier speech on evidence-based policy, Banks went further:

For evidence to discharge these various functions, however, it needs to be the right

⁴ Banks, G, 'Are we overcoming Indigenous disadvantage?' (Presented as the third lecture in Reconciliation Australia's 'Closing the Gap Conversations' Series, National Library, Canberra, 7 July 2009).

http://www.pc.gov.au/_data/assets/pdf_file/0013/90310/cs20090707.pdf at 29 August 2011.

evidence; it needs to occur at the right time and be seen by the right people. That may sound obvious, but it is actually very demanding. I want to talk briefly now about some essential ingredients in achieving it.

Nevertheless all good methodologies have a number of features in common:

- They test a theory or proposition as to why policy action will be effective — ultimately promoting community wellbeing — with the theory also revealing what impacts of the policy should be observed if it is to succeed;
- They have a serious treatment of the ‘counterfactual’; namely, what would happen in the absence of any action?
- They involve, wherever possible, quantification of impacts (including estimates of how effects vary for different policy ‘doses’ and for different groups);
- They look at both direct and indirect effects (often it’s the indirect effects that can be most important);
- They set out the uncertainties and control for other influences that may impact on observed outcomes;
- They are designed to avoid errors that could occur through self selection or other sources of bias;
- They provide for sensitivity tests: and importantly,
- They have the ability to be tested and, ideally, replicated by third parties.⁵

This list of criteria sums up neatly the realistic models that should have been followed in relation to income management, since the Productivity Commission (PC) is one of the Government’s major evidence-producing units. However, none of the government designs for data collections met these criteria.

Even more recent guidance comes from another significant government source, in this case the Australian Institute for Health and Welfare (AIHW) summary report on *Closing the Gap, 2011*.⁶ On 9 February 2011, Prime Minister Julia Gillard made a statement in Parliament on her Government’s approach to Indigenous policy which could be seen as endorsing these approaches:

Because I believe in tackling the big challenges in the national interest...I see Closing the Gap as a way of understanding the problems. It is evidence-based, accountable and transparent. It tells us what needs to be done first and fastest and builds a methodical approach. It allows us to build consensus in support of specific progress, instead of debating abstract ideas. To do what we can, with what we have, where we are.

Because I believe Australians judge Governments on delivery... I see Closing the Gap as a way of working on the solutions. It is a way of making specific, measurable progress. It is practical and cumulative. It gives us new information which means we

⁵ Banks, G, ‘Evidence-based policy making: What is it? How do we get it?’ (Paper presented at Australian National University Public Lecture Series, presented by ANZSOG, 4 February 2009).

http://www.pc.gov.au/_data/assets/pdf_file/0003/85836/20090204-evidence-based-policy.pdf at 29 August 2011.

⁶ Closing the Gap Clearinghouse, What works to overcome Indigenous disadvantage: key learnings and gaps in the evidence (2011).

can invest where investment will make the greatest difference. Information which means we can be sure that the Government is meeting its responsibilities.⁷

The AIHW operates the Closing the Gap Clearinghouse, which recently published a list of criteria for what works for and in Indigenous communities. These standards echo the view of the Productivity Commission report quoted earlier in this section:

Key learnings

The Clearinghouse processes identified overarching themes for successful programs in overcoming Indigenous disadvantage. Notably, these findings are highly congruent with views of significant Indigenous and non-Indigenous stakeholders, community development principles and ‘common sense’ approaches.

They are also consistent with the Service delivery principles for programs and services for Indigenous Australians (set out in Schedule D of the National Indigenous Reform Agreement, effective February 2011).

The Clearinghouse’s important contribution is the rigour and impartiality through which available data have been considered. The convergence between ‘real world experience’, government principles for action and the Clearinghouse’s technical assessment builds confidence that emerging themes provide a solid basis for overcoming Indigenous disadvantage.

What works

- **Community involvement and engagement.** For example, key success factors in Indigenous community-based alcohol and substance-abuse programs were strong leadership, strong community–member engagement, appropriate infrastructure and use of a paid workforce to ensure long-term sustainability.
- **Adequate resourcing and planned and comprehensive interventions.** For example, a systematic approach with appropriate funding arrests the escalating epidemic of end-stage kidney failure, reduces suffering for Indigenous people and saves resources. A strong sense of community ownership and control is a key element in overcoming Indigenous disadvantage.
- **Respect for language and culture.** For example, capacity building of Indigenous families and respect for culture and different learning style were considered to be important for engaging Indigenous families in school readiness programs.
- **Working together through partnerships, networks and shared leadership.** For example, an Aboriginal-driven program increased knowledge about nutrition, exercise, obesity and chronic diseases, including diabetes. The educational component, participation of local Indigenous people in the program and committed partnerships with the organisations involved were important to the program’s success.
- **Development of social capital.** For example the Communities for Children initiative, under the Australian Government’s former strategy (the Stronger Families and Communities Strategy 2004–2009) highlighted the importance of a collaborative approach to maternal and child health, child-friendly communities, early learning and care, supporting families and parents, and working together in

⁷ Julia Gillard, PM, (Speech delivered on launch of the Closing the Gap report, Parliament House, 9 February 2011).

partnership.

- **Recognising underlying social determinants.** For example, data from the Longitudinal Study of Australian Children demonstrated that financial disadvantage was one factor among other variables that may affect school readiness and progress for young children.
- **Commitment to doing projects with, not for, Indigenous people.** For example, the evaluation of the NSW Count Me In Too Indigenous numeracy program found that contextual learning was successful and critical, professional development for teachers was essential, effective relationships were vital and Aboriginal community buy-in was also essential for ongoing success.
- **Creative collaboration that builds bridges between public agencies and the community** and coordination between communities, non-government and government to prevent duplication of effort. For example, a collaborative project between health and education workers at a primary public school in South Australia (The Wadu Wellness project), in which a number of children were screened, has resulted in follow-up and support for children for hearing problems and dental treatment, and social and emotional support.
- **Understanding that issues are complex and contextual.** For example, frequent house moves, neighbourhood conflict, functionality of housing amenities and high rental costs were found to have an impact on children's schooling.

What doesn't work

- **'One size fits all' approaches.** For example, residential treatment for alcohol and other drugs dependency is generally not more effective than non-residential treatment. However, evidence indicates that residential treatment is more effective for clients with more severe deterioration, less social stability and high relapse risk. As these are characteristics of many Indigenous clients, residential treatment may be most appropriate.
- **Lack of collaboration and poor access to services.** For example, successful interventions require the integration of health services to provide continuity of care, community involvement and local leadership in health-care delivery and culturally appropriate mainstream services. These steps help to ensure the suitability and availability of services, which can thereby improve access by Indigenous Australians.
- **External authorities imposing change and reporting requirements.** For example, a review of evidence from seven rigorously evaluated programs that linked school attendance with welfare payments in the United States found that sanction-only programs have a negligible effect on attendance, but that case management was the most critical variable.
- **Interventions without local Indigenous community control and culturally appropriate adaptation.** For example, evidence indicated external imposition of 'local dry area bans' (where consumption of alcohol is prohibited within a set distance of licensed premises) was ineffective and only served to move the site of public drinking, often to areas where the risk of harm was greater.
- **Short-term, one-off funding, piecemeal interventions, provision of services in isolation and failure to develop Indigenous capacity to provide services.** For example, a one-off health assessment with community feedback and an increase in health service use was unlikely to produce long-term health benefits and improvements. An ongoing focus on community development and sustained population health intervention are needed.⁸

⁸ Closing the Gap Clearinghouse, What works to overcome Indigenous disadvantage: key learnings and gaps in the evidence (2011).

The evidence we cover shows the NTER generally, and the income management program in particular, falls dramatically short of meeting these standards. Nor did the government data collection exercises associated with income management meet these criteria. The Prime Minister appears to be unaware or deliberately ignorant of the mismatch between her government's rhetoric and the reality in this critical area of policy-making.

The material in this issue of the journal traces the enactment of laws, introducing and then extending income management, despite the absence of substantial evidence that it had, could or would work. Considerable opposition from a wide range of experts and others failed to influence the process, since they disagreed with the government's intentions. The fact that a broad group of informed and respected experts was unable to influence such an important wide-ranging policy process suggests that the process needs to be reformed.

The Minister and her Departmental officers have failed to meet the standards set by the government's own main sources of advice on data and policy making shown above. While we recognise that political process is always paramount in decision-making, the judgement needs to be made about whether these political decisions can be justified.

Prejudice against Indigenous people is a danger that must be considered in this context. As has been noted, income management was originally part of a package of policies applied to 73 communities and justified as an emergency move to save children from sexual abuse. This meant that little scrutiny was given to the package as a whole or any particular part. After all, it seemed as though it had little to do with 'us', the non-Indigenous majority.

There are many large gaps between available evidence and the corresponding decisions, and this set of legislative changes exemplified the need in a democracy for those aware of the risks and damage to point out the problems and be heard. Many groups giving evidence to the Senate Community Affairs Legislation Committee⁹ and participating in the consultations cast doubt on the income management program, but the Government officials had already made up their minds and took notice only of what supported their conclusions. Our review shows how counterevidence was manipulated, ignored and misused, suggesting that decision makers had already decided on their course of action before 'consultation processes' or evidence taking began.

There was, and is, some evidence that can be used to evaluate the effects of income management. The question is whether any of it was adequate to use to

http://www.aihw.gov.au/closingthegap/documents/annual_papers/what_works_to_overcome_disadvantage.pdf at 29 August 2011.

⁹ Inquiry into Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and related bills (2010).

determine whether the extension and changes to the program were justified. The data set out in this Journal has been mostly sourced from the government's own data collections, evaluations and other evidence, including what was submitted or presented to the inquiry. Some additional information comes from independent research studies which were not given adequate weight or serious considerations – for example the Health Impact Assessment by the Australian Indigenous Doctors Association¹⁰ and the purchasing study by Menzies School of Health Research¹¹ which are discussed further in the Journal. Other data has emerged in the last few months which continue to cast doubt on the decisions taken.

Given this wealth of information that has not been considered appropriately, this issue of the Journal argues that the Government is failing to meet its own stated standards for use of evidence in policy-making and often ignores its own advisers' views of what is good policy and what works. In this case, there is an additional twist as the income management policy appears to have been used for wider political purposes such as major changes to income support policy.

¹⁰ Australian Indigenous Doctors' Association and Centre for Health Equity Training, Research and Evaluation, University of NSW *Health Impact Assessment of the Northern Territory Emergency Response* (2010).

<http://www.aida.org.au/viewpublications.aspx?id=3> at 29 August 2011.

¹¹ Julie K Brimblecombe, Joseph McDonnell, Adam Barnes, Joanne Garnggulkpuy Dhurrkay, David P Thomas and Ross S Bailie 'After the Intervention — Research Impact of income management on store sales in the Northern Territory,' MJA 2010; 192(10): 549-554. http://www.mja.com.au/public/issues/192_10_170510/bri10090_fm.html?source=cmaileris